

Union Calendar No. 79

109TH CONGRESS
1ST SESSION

H. R. 1412

[Report No. 109–137]

To amend the Ports and Waterways Safety Act to require notification of the Coast Guard regarding obstructions to navigation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2005

Mr. LOBIONDO (for himself, Mr. SAXTON, Mr. ANDREWS, Mr. CASTLE, and Ms. SCHWARTZ of Pennsylvania) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JUNE 16, 2005

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 17, 2005]

A BILL

To amend the Ports and Waterways Safety Act to require notification of the Coast Guard regarding obstructions to navigation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Delaware River Protec-*
 3 *tion Act of 2005”.*

4 **SEC. 2. REQUIREMENT TO NOTIFY COAST GUARD OF RE-**
 5 **LEASE OF OBJECTS INTO THE NAVIGABLE**
 6 **WATERS OF THE UNITED STATES.**

7 *The Ports and Waterways Safety Act (33 U.S.C. 1221*
 8 *et seq.) is amended by adding at the end the following:*

9 **“SEC. 15. REQUIREMENT TO NOTIFY COAST GUARD OF RE-**
 10 **LEASE OF OBJECTS INTO THE NAVIGABLE**
 11 **WATERS OF THE UNITED STATES.**

12 “(a) *REQUIREMENT.*—As soon as a person has knowl-
 13 *edge of any release from a vessel or facility into the navi-*
 14 *gable waters of the United States of any object that creates*
 15 *an obstruction prohibited under section 10 of the Act of*
 16 *March 3, 1899, popularly known as the Rivers and Harbors*
 17 *Appropriations Act of 1899 (chapter 425; 33 U.S.C. 403),*
 18 *such person shall notify the Secretary and the Secretary*
 19 *of the Army of such release.*

20 “(b) *RESTRICTION ON USE OF NOTIFICATION.*—Any
 21 *notification provided by an individual in accordance with*
 22 *subsection (a) shall not be used against such individual in*
 23 *any criminal case, except a prosecution for perjury or for*
 24 *giving a false statement.”.*

25 **SEC. 3. LIMITS ON LIABILITY.**

26 (a) *ADJUSTMENT OF LIABILITY LIMITS.*—

1 (1) *TANK VESSELS*.—Section 1004(a)(1) of the
2 *Oil Pollution Act of 1990* (33 U.S.C. 2704(a)(1)) is
3 amended—

4 (A) by redesignating subparagraph (B) as
5 subparagraph (C);

6 (B) by striking subparagraph (A) and in-
7 serting the following:

8 “(A) with respect to a single-hull vessel, in-
9 cluding a single-hull vessel fitted with double
10 sides only or a double bottom only—

11 “(i) \$1,550 per gross ton for an inci-
12 dent that occurs in 2005;

13 “(ii) \$1,900 per gross ton for an inci-
14 dent that occurs in 2006; or

15 “(iii) \$2,250 per gross ton for an inci-
16 dent that occurs in 2007 or in any year
17 thereafter; or

18 “(B) with respect to a double-hull vessel
19 (other than any vessel referred to in subpara-
20 graph (A))—

21 “(i) \$1,350 per gross ton for an inci-
22 dent that occurs in 2005;

23 “(ii) \$1,500 per gross ton for an inci-
24 dent that occurs in 2006; and

1 “(iii) \$1,700 per gross ton for any in-
 2 cident that occurs in 2007 or in any year
 3 thereafter; or”; and

4 (C) in subparagraph (C), as redesignated by
 5 subparagraph (A) of this paragraph—

6 (i) in clause (i) by striking
 7 “\$10,000,000” and inserting “\$14,000,000”;
 8 and

9 (ii) in clause (ii) by striking
 10 “\$2,000,000” and inserting “\$2,500,000”.

11 (2) *LIMITATION ON APPLICATION.*—In the case of
 12 an incident occurring before the date of the enactment
 13 of this Act, section 1004(a)(1) of the Oil Pollution Act
 14 of 1990 (33 U.S.C. 2704(a)(1)) shall apply as in ef-
 15 fect immediately before the effective date of this sub-
 16 section.

17 (b) *ADJUSTMENT TO REFLECT CONSUMER PRICE*
 18 *INDEX.*—Section 1004(d)(4) of the Oil Pollution Act of
 19 1990 (33 U.S.C. 2704(d)(4)) is amended to read as follows:

20 “(4) *ADJUSTMENT TO REFLECT CONSUMER*
 21 *PRICE INDEX.*—The President shall, by regulations
 22 issued no later than 3 years after the date of the en-
 23 actment of the Delaware River Protection Act of 2005
 24 and no less than every 3 years thereafter, adjust the

1 *limits on liability specified in subsection (a) to reflect*
 2 *significant increases in the Consumer Price Index.”.*

3 **SEC. 4. REQUIREMENT TO UPDATE PHILADELPHIA AREA**
 4 **CONTINGENCY PLAN.**

5 *The Philadelphia Area Committee established under*
 6 *section 311(j)(4) of the Federal Water Pollution Control Act*
 7 *(33 U.S.C. 1321(j)(4)) shall, by not later than 12 months*
 8 *after the date of the enactment of this Act and not less than*
 9 *annually thereafter, review and revise the Philadelphia*
 10 *Area Contingency Plan to include available data and bio-*
 11 *logical information on environmentally sensitive areas of*
 12 *the Delaware River and Delaware Bay that has been col-*
 13 *lected by Federal and State surveys.*

14 **SEC. 5. SUBMERGED OIL REMOVAL.**

15 *(a) AMENDMENTS.—Title VII of the Oil Pollution Act*
 16 *of 1990 is amended—*

17 *(1) in section 7001(c)(4)(B) (33 U.S.C.*
 18 *2761(c)(4)(B)) by striking “RIVERA,” and inserting*
 19 *“RIVERA and the T/V ATHOS I;”; and*

20 *(2) by adding at the end the following:*

21 **“SEC. 7002. SUBMERGED OIL PROGRAM.**

22 *“(a) PROGRAM.—*

23 *“(1) ESTABLISHMENT.—The Undersecretary of*
 24 *Commerce for Oceans and Atmosphere, in conjunction*
 25 *with the Commandant of the Coast Guard, shall es-*

1 *tablish a program to detect, monitor, and evaluate the*
2 *environmental effects of submerged oil. Such program*
3 *shall include the following elements:*

4 *“(A) The development of methods to remove,*
5 *disperse or otherwise diminish the persistence of*
6 *submerged oil.*

7 *“(B) The development of improved models*
8 *and capacities for predicting the environmental*
9 *fate, transport, and effects of submerged oil.*

10 *“(C) The development of techniques to detect*
11 *and monitor submerged oil.*

12 *“(2) REPORT.—The Secretary of Commerce*
13 *shall, no later than 3 years after the date of the enact-*
14 *ment of the Delaware River Protection Act of 2005,*
15 *submit to the Committee on Transportation and In-*
16 *frastructure of the House of Representatives and the*
17 *Committee on Commerce, Science, and Transpor-*
18 *tation and the Committee on Environment and Pub-*
19 *lic Works of the Senate a report on the activities car-*
20 *ried out under this subsection and activities proposed*
21 *to be carried out under this subsection.*

22 *“(3) FUNDING.—There is authorized to be appro-*
23 *priated to the Secretary of Commerce \$1,000,000 for*
24 *each of fiscal years 2006 through 2010 to carry out*
25 *this subsection.*

1 “(b) *DEMONSTRATION PROJECT.*—

2 “(1) *REMOVAL OF SUBMERGED OIL.*—*The Com-*
 3 *mandant of the Coast Guard, in conjunction with the*
 4 *Undersecretary of Commerce for Oceans and Atmos-*
 5 *phere, shall conduct a demonstration project for the*
 6 *purpose of developing and demonstrating technologies*
 7 *and management practices to remove submerged oil*
 8 *from the Delaware River and other navigable waters.*

9 “(2) *FUNDING.*—*There is authorized to be appro-*
 10 *priated to the Commandant of the Coast Guard*
 11 *\$2,000,000 for each of fiscal years 2006 through 2010*
 12 *to carry out this subsection.”.*

13 (b) *CLERICAL AMENDMENT.*—*The table of sections in*
 14 *section 2 of such Act is amended by inserting after the item*
 15 *relating to section 7001 the following:*

“Sec. 7002. *Submerged oil program.*”.

16 **SEC. 6. DELAWARE RIVER AND BAY OIL SPILL ADVISORY**
 17 **COMMITTEE.**

18 (a) *ESTABLISHMENT.*—*There is established the Dela-*
 19 *ware River and Bay Oil Spill Advisory Committee (in this*
 20 *section referred to as the “Committee”).*

21 (b) *FUNCTIONS.*—

22 (1) *IN GENERAL.*—*The Committee shall, by not*
 23 *later than 1 year after the date the Commandant of*
 24 *the Coast Guard (in this section referred to as the*
 25 *“Commandant”) completes appointment of the mem-*

bers of the Committee, make recommendations to the Commandant, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate on methods to improve the prevention of and response to future oil spills in the Delaware River and Delaware Bay.

(2) *MEETINGS.*—*The Committee—*

(A) shall hold its first meeting not later than 60 days after the completion of the appointment of the members of the Committee; and

(B) shall meet thereafter at the call of the Chairman.

(c) *MEMBERSHIP.*—*The Committee shall consist of 15 members who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the Delaware River and Delaware Bay, as follows:*

(1) *Three members who are employed by port authorities that oversee operations on the Delaware River or have been selected to represent these entities, of whom—*

(A) one member must be an employee or representative of the Port of Wilmington;

1 (B) one member must be an employee or
2 representative of the South Jersey Port Corpora-
3 tion; and

4 (C) one member must be an employee or
5 representative of the Philadelphia Regional Port
6 Authority.

7 (2) Two members who represent organizations
8 that operate tugs or barges that utilize the port facili-
9 ties on the Delaware River and Delaware Bay.

10 (3) Two members who represent shipping compa-
11 nies that transport cargo by vessel from ports on the
12 Delaware River and Delaware Bay.

13 (4) Two members who represent operators of oil
14 refineries on the Delaware River and Delaware Bay.

15 (5) Two members who represent environmental
16 and conservation interests.

17 (6) Two members who represent State-licensed
18 pilots who work on the Delaware River and Delaware
19 Bay.

20 (7) One member who represents labor organiza-
21 tions that load and unload cargo at ports on the
22 Delaware River and Delaware Bay.

23 (8) One member who represents the general pub-
24 lic.

1 (d) *APPOINTMENT OF MEMBERS.*—*The Commandant*
2 *shall appoint the members of the Committee, after soliciting*
3 *nominations by notice published in the Federal Register.*

4 (e) *CHAIRMAN AND VICE CHAIRMAN.*—*The Committee*
5 *shall elect, by majority vote at its first meeting, one of the*
6 *members of the Committee as the Chairman and one of the*
7 *members as the Vice Chairman. The Vice Chairman shall*
8 *act as Chairman in the absence of or incapacity of the*
9 *Chairman, or in the event of vacancy in the Office of the*
10 *Chairman.*

11 (f) *PAY AND EXPENSES.*—

12 (1) *PROHIBITION ON PAY.*—*Members of the Com-*
13 *mittee who are not officers or employees of the United*
14 *States shall serve without pay. Members of the Com-*
15 *mittee who are officers or employees of the United*
16 *States shall receive no additional pay on account of*
17 *their service on the Committee.*

18 (2) *EXPENSES.*—*While away from their homes*
19 *or regular places of business, members of the Com-*
20 *mittee may be allowed travel expenses, including per*
21 *diem, in lieu of subsistence, as authorized by section*
22 *5703 of title 5, United States Code.*

23 (g) *TERMINATION.*—*The Committee shall terminate*
24 *one year after the completion of the appointment of the*
25 *members of the Committee.*

1 **SEC. 7. MARITIME FIRE AND SAFETY ACTIVITIES.**

2 *The Maritime Transportation Security Act of 2002*
3 *(Public Law 107–295) is amended—*

4 *(1) in section 407—*

5 *(A) in the heading by striking “**LOWER***
6 ***COLUMBIA RIVER**”; and*

7 *(B) by striking “\$987,400” and inserting*
8 *“\$1,500,000”; and*

9 *(2) in the table of contents in section 1(b) by*
10 *striking the item relating to section 407 and inserting*
11 *the following:*

“Sec. 407. Maritime fire and safety activities.”.

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